

ATTACHMENT A
CITY OF KIRKLAND
CODE OF ETHICS

SECTION 1 - POLICY

Policy Purpose

The Kirkland City Council has adopted a Code of Ethics for members of the City Council and the City's boards and commissions to ensure public confidence in the integrity of local government and its effective and fair operation. This policy will provide the basis for education and training for city officials, both elected and appointed, to ensure that the highest standards and best practices with regard to ethics will be followed.

Definitions

"Material financial interest" means (1) remuneration from outside employment or services as an independent contractor in excess of \$1,000 per year from any person or entity; (2) ownership of a non-managerial equity interest in excess of \$10,000 in any privately held entity or one percent or greater of any publicly traded entity; (3) a managerial interest in any for-profit entity doing business with the City, whether compensated or not; (4) an interest as a trustee, director or officer in any entity doing business with the City, and (5) status as a creditor of a person or entity that has a City contract, sale, lease, purchase or grant and where the face of the debt is \$10,000 or more.

"Official" means members of the City Council and members of City boards and commissions, including youth members.

"Relative" for the purposes of this Code means: persons related by blood, marriage, or legal adoption (including grandparent, parent, spouse, domestic partner, brother, sister, child, grandchild or any person with whom the Official has a close personal relationship such as a fiancée or co-habitant).

A. INTENT

The citizens and businesses of Kirkland are entitled to have fair, ethical and accountable local government which has earned the public's full confidence for integrity. In keeping with the City of Kirkland commitment to excellence, the effective functioning of democratic government therefore requires that:

- public officials, both elected and appointed, comply with both the letter and spirit of the laws and policies affecting the operations of government;

- public officials be independent, impartial and fair in their judgment and actions;
- public office be used for the public good, not for personal gain; and
- public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

B. COMPLY WITH THE LAW AND CITY POLICY

Officials shall comply with the laws of the nation, the State of Washington and the City of Kirkland in the performance of their public duties. These laws include, but are not limited to: the United States and Washington constitutions; laws pertaining to conflicts of interest, election campaigns, financial disclosures and open processes of government; and City ordinances and policies. *See Appendix A.*

C. ACT IN THE PUBLIC INTEREST

Recognizing that stewardship of the public interest must be their primary concern, Officials will work for the common good of the people of Kirkland and not for any private or personal interest, and they will ensure fair and equal treatment of all persons, claims and transactions coming before the Kirkland City Council, boards and commissions. Officials need to be mindful that making special requests of staff – even when the response does not benefit the Official personally, puts staff in an awkward position.

1. Gifts and Favors. Officials shall not take any special advantage of services or opportunities for personal gain, by virtue of their public office, which are not available to the public in general. They shall not accept or solicit any gifts, favors or promises of future benefits except as allowed by Kirkland Municipal Code 3.80.140.

2. Use of Public Resources. Generally, except for infrequent use at little or no cost to the City, Officials shall not use public resources that are not available to the public in general, such as City staff time, equipment, supplies or facilities, for private gain or personal purposes.

3. Representation of Third Parties. Officials shall not appear on behalf of the private interests of third parties before the Council or any board, commission or proceeding of the City.

4. Campaign Solicitation. As required by RCW 42.17.750, no Official shall knowingly solicit or encourage, directly or indirectly, any political contribution from any City employee.

5. Campaign Activities. As required by RCW 42.17.130, no Official may use or authorize the use of the facilities of the City for the purpose of assisting a campaign for the election of any person to any office, or for the promotion of or opposition to any ballot proposition in a manner not available to the general public on the same terms.

6. Nepotism. The City Council will not appoint relatives of City Council Members to boards or commissions or other appointed positions.

7. Solicitations of Charitable Contributions. No Official may make direct personal solicitations for charitable contributions from City employees.

D. CONFLICT OF INTEREST

In order to ensure their independence and impartiality on behalf of the common good, Officials shall not use their positions to influence government decisions in which they or their relatives have a material financial interest or where they have an organizational responsibility or personal relationship which may give the appearance of a conflict of interest.

All Officials shall file a City of Kirkland Disclosure Statement annually. In accordance with Chapter 42.17 RCW, members of the Kirkland City Council shall also disclose investments, interests in real property, sources of income, and creditors through the filing of a Public Disclosure Commission Form F-1, "Personal Financial Affairs Statement." Members of boards and commissions shall be advised as part of the application process, that they will be required to file the applicable City of Kirkland Disclosure Statement within ten days of appointment. Officials shall abstain from participating in deliberations and decision-making where conflicts exist.

Officials shall make public any conflict of interest the Official has with respect to any issue under consideration by the body. The nature of such conflict need only be described in terms that make clear the existence of a conflict. The Official shall leave the meeting room, not participate in discussions of the subject and shall not vote on it if:

1. The Official has a material financial interest in the subject,
2. The Official is a relative of or has a close personal or professional relationship with a person who has a material financial interest in the subject, or
3. The ordinances of the City of Kirkland or Chapter 42.23 RCW prohibit the Official's involvement.

If the Official has only a casual association with the subject or the parties, the Official must state the relationship, and then may fully participate.

E. CONDUCT OF OFFICIALS

1. Personal integrity. The professional and personal conduct of Officials must be above reproach and avoid even the appearance of impropriety. Officials shall refrain from abusive conduct, threats of official action, personal accusations or verbal attacks upon the character or motives of other members of Council, boards and commissions, the staff or public. Officials shall maintain truthfulness and honesty and not compromise them for advancement, honor, or personal gain. Additionally, Officials shall not directly or indirectly induce, encourage or aid anyone to violate the Code of Ethics and it is incumbent upon Officials to make a good faith effort to address apparent violations of this Code of Ethics, as provided in Section 3.A.

2. Respect for Process. Officials shall perform their duties in accordance with the processes and rules of order established by the City Council and board and commissions governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions of the City Council by City staff.

3. Conduct of Public Meetings. Officials shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand. They shall refrain from interrupting other speakers; making personal comments not germane to the business of the body; or otherwise interfering with the orderly conduct of meetings.

4. Decisions Based on Merit. Officials shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.

5. Communication. Officials shall publicly disclose substantive information that is relevant to a matter under consideration by the Council or boards and commissions, which they may have received from sources outside of the public decision-making process.

6. Attendance. As provided in RCW 35A.12.060, a Council Member shall forfeit his or her office by failing to attend three consecutive regular meetings of the Council without being excused by the Council. Unless excused, members of boards and commissions are expected to attend all meetings. It is a violation of this Code of Ethics for members of boards and commissions to be absent without excuse from more than 20 percent of meetings in a twelve-month period.

F. CONFIDENTIAL INFORMATION

Officials shall keep confidential all written materials and verbal information provided to them during executive sessions to ensure that the City's position is not compromised. Confidentiality also includes information provided to Officials outside of executive session when the information is considered to be exempt from disclosure under exemptions set forth in the Revised Code of Washington. Questions about whether or not information is confidential should be referred to the City Attorney. The release of confidential or disclosure-exempt information must be considered and approved by the full Council prior to disclosure.

G. RETENTION, DESTRUCTION, AND IMPROPER CONCEALMENT OF RECORDS

Transparency, openness, and accountability are fundamental values of the City of Kirkland – and are also required by the laws of the state of Washington. The public has a right to inspect and copy public records unless exempt by law from disclosure. All materials relating to the conduct of City government that are prepared, possessed, used or retained by any Official, including email and other electronic records, are subject to requirements for retention, protection, and disclosure. Officials may assume that all copies of materials received from City staff have already been archived and do not need to be retained. Officials shall not discard, damage, or destroy the original copy of any public record unless directed by the City Public Records Officer (the City Clerk), who has responsibility to ensure that the City complies with the record retention schedules established under Chapter 40.14 RCW. Officials shall promptly provide any records requested by the Public Records Officer in response to a disclosure request under the Public Records Act, Chapter 42.56 RCW. It is the responsibility for the Public Records Officer, together with the City Attorney, to decide which records meet the definition of “public record” and whether or not they are exempt from disclosure; Officials must not take it upon themselves to decide whether a record meets the definition of a public record, that a record is exempt from disclosure, or to otherwise conceal a record. Willful failure to act in accordance

with this subsection is a violation of the Code of Ethics and may subject the City to substantial financial penalties and costs.

H. ADVOCACY

When acting in an official capacity as a City of Kirkland Official, Officials shall represent the official policies or positions of the City Council, board or commission to the best of their ability when the City Council, board or commission has taken a position or given an instruction. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Kirkland, nor will they allow the inference that they do. Officials have the right to endorse candidates for all Council seats or other elected offices. It is inappropriate to make or display endorsements during Council meetings, board/commission meetings, or other official City meetings. However, this does not preclude Officials from participating in ceremonial occasions, community events, or other events sponsored by civic groups.

I. POLICY ROLE OF OFFICIALS

Officials shall respect and adhere to the council-manager structure of Kirkland City government as outlined by Chapter 35A.13 RCW. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by the public, boards and commissions, and City staff. Except as provided by state law, Officials shall not interfere with the administrative functions of the City or the professional duties of City staff; nor shall they impair the ability of staff to implement Council policy decisions.

SECTION 2 – BOARD OF ETHICS

The establishment of a citizen Board of Ethics will provide for annual review of the Code of Ethics, review of training materials provided for education regarding the Code of Ethics, and advisory opinions concerning the Code of Ethics. The Board also has a role in the prompt and fair enforcement of its provisions in the rare occasion when informal measures to deal with ethical lapses have failed.

A. BOARD ESTABLISHED

There is created a Board of Ethics for the City of Kirkland. The purpose of this Board of Ethics is to issue advisory opinions on the provisions of this Code of Ethics and to determine the sufficiency of complaints alleging violations of this Code of Ethics, as set forth below.

1. The Board of Ethics shall be composed of three members, and one alternate member ("first alternate") none of whom shall be an Official or City employee. The board members shall be appointed by the City Council. The alternate member may attend all meetings of the Board of Ethics, but shall have no voting rights except as otherwise provided. The term of each board member shall be three years. The first three members shall be appointed for one, two or three year terms, respectively, to be determined by lot. No board member may serve more than six years.

2. The Board of Ethics shall determine and elect its Chair. The Chair shall serve for a period of one year, unless reelected. The Chair may serve no more than two consecutive

terms as Chair. In the event a Board member must recuse himself or herself or otherwise be unavailable to conduct Board business, the first alternate member shall serve in his/her place. If a second alternate member is required, the Board shall select such alternate member from prior Board members who have served during the preceding six years ("second alternate"). The second alternate Board member shall be chosen by agreement of the remaining Board members. In the event no former Board members are available, the City Council shall appoint an alternate Board member. In filling any vacancy or making an appointment to the Board of Ethics, the City Council shall strive to select members with diverse perspectives and areas of expertise appropriate to the review of ethical matters, and who are of good general reputation and character.

3. Any action by the Board of Ethics shall require the affirmative vote of two Board members.

4. The Board of Ethics shall meet no less than one time per year to recommend updates to the Code of Ethics and training materials as set forth below. The Board of Ethics shall meet as-needed to respond to requests for advisory opinions and complaints as set forth in Subsection D.

B. ADVISORY OPINIONS

1. Upon request of any Official, the Board of Ethics may render written advisory opinions concerning the applicability of the Code of Ethics to hypothetical circumstances and/or situations solely related to the persons making the request. The Board of Ethics will not render opinions on matters that are the purview of other government agencies or officials, e.g., the Public Disclosure Commission, the City Public Records Officer, etc.

2. Upon request of any Official, the Board of Ethics may also render written advisory opinions concerning the applicability of the Code of Ethics to hypothetical circumstances and/or situations related to a matter of city-wide interest or policy.

3. The Board of Ethics will endeavor to respond to requests for advisory opinions within forty-five (45) days of submission of the request, or more rapidly if the requester expresses urgency in the request.

C. ADVISORY OPINIONS – EFFECT ON ENFORCEMENT

A person's conduct based in reasonable reliance on an advisory opinion rendered by the Board of Ethics shall not be found to violate this Code of Ethics, as long as all material facts have been fully, completely, accurately presented in a written request for an advisory opinion, and the person's conduct is consistent with the advisory opinion. The Board of Ethics reserves the right to reconsider the questions and issues raised in an advisory opinion and, where the public interest requires, rescind, modify, or terminate the opinion, but a modified or terminated advisory opinion will not form the basis of a retroactive enforcement action against the original requestor. Advisory opinions will contain severability clauses indicating that should portions of the opinion be found to be unenforceable or not within their authority, the remainder of the opinion shall remain intact.

D. ADDITIONAL DUTIES

The Board of Ethics, in addition to its other duties may recommend changes or additions to this Code of Ethics to the City Council. The Board shall provide input into and review the training materials and program developed for this Code of Ethics.

SECTION 3 – ADDRESSING ETHICAL INFRACTIONS

Violations or infractions of ethics codes often occur inadvertently because of a lack of knowledge of ethics code requirements. Most people intend and want to do the right thing. Officials themselves have the primary responsibility of ensuring that ethical standards are understood and met and that the public can continue to have full confidence in the integrity of government. The chairs of boards and commissions and the Mayor and City Council have the additional responsibility of intervening when actions of Officials which appear to be in violation of this Code of Ethics are brought to their attention. Officials should point out infractions of this Code of Ethics to the offending Official. The formal complaint process outlined below is intended to be used when informal processes fail and to provide for the fair and effective administration and enforcement of this Code of Ethics.

A. COMPLAINT PROCESS

A formal complaint should be filed if and only if all other efforts to resolve the problem have been exhausted without satisfactory resolution. A formal complaint is a serious matter and not to be made lightly.

1. Complaint Requirements – Service. Any person may submit a written complaint to the City Clerk alleging one or more violations of this Code of Ethics by an Official. The complaint must:

- a. Set forth specific facts with enough precision and detail for the Board of Ethics to make a determination of sufficiency. A complaint is sufficient if it precisely alleges and describes acts which constitute a prima facie showing of a violation of a specified provision of this Code of Ethics; and
- b. Set forth the specific section(s) and subsection(s) of this Code of Ethics that the complaining party believes has been violated; and
- c. Provide an explanation by the complaining party of the reasons why the alleged facts violate this Code of Ethics; and
- d. Be signed under penalty of perjury by the person(s) submitting it in a manner consistent with Chapter 9A.72 RCW; and
- e. State each complaining person's correct name, address at which mail may be personally delivered to the submitter and the telephone number at which each complaining person may be contacted.

The City Clerk shall promptly mail a copy of the complaint to the person complained against and submit the complaint to the Board of Ethics for a determination of sufficiency.

2. Finding of Sufficiency. The Board of Ethics shall submit a written report with a finding of sufficiency or insufficiency within fifteen (15) days of its receipt of the written complaint. The finding of insufficiency by the Board of Ethics is final and binding, and no administrative or other legal appeal is available. If the finding is one of sufficiency of the complaint, then the complaint shall be investigated as set forth below.

3. Dismissal. The Board of Ethics shall dismiss the complaint if the Board of Ethics determines the complaint is insufficient:

- a. The violation was inadvertent and minor; or
- b. A violation occurred, but appropriate actions have been taken to fully address the allegedly unethical conduct.

4. Notice. Notice of action by the Board of Ethics shall be provided as follows:

a. Notice of a finding of insufficiency or dismissal of a complaint by the Board of Ethics shall be mailed to the person who made the complaint and the person complained against within seven (7) days of the decision by the Board of Ethics. A finding of insufficiency or dismissal of a complaint by the Board of Ethics is final and binding, and no administrative or other legal appeal is available.

b. Within seven (7) days of the Board of Ethics rendering a finding of sufficiency, the City Clerk shall mail notice to the person who made the complaint and the person complained against, of the public hearing which will be held to determine if a violation has occurred. Notice shall be provided at least thirty (30) days prior to the date set for the hearing. The person complained against shall have the right to file a written answer to the charge and to appear at the hearing with or without legal counsel, submit testimony, be fully heard, and to examine and cross examine witnesses.

5. Stipulations. Violation of any provision of the Code of Ethics should raise questions for the Official concerned as to whether resignation, compensatory action, or a sincere apology is appropriate to promote the best interests of the City and to prevent the cost – in time, money and emotion – of an investigation and hearings. At any time after a complaint has been filed with the Board of Ethics, the Board of Ethics may seek and enter into a stipulation with the person complained against. The stipulation will include the nature of the complaint, relevant facts, the reasons the Board of Ethics thinks a stipulation is appropriate, an admission of the violation by the person complained against, a promise by the person complained against not to repeat the violation, and if appropriate, a recommended remedy or penalty. The stipulation shall be mailed to the person who made the complaint and the person complained against and forwarded to the City Council for action.

B. CONDUCT OF HEARINGS

1. All hearings on complaints found to be sufficient by the Board of Ethics shall be conducted by the Hearing Examiner. The hearing shall be informal, meaning that the Hearing Examiner shall not be bound by the strict rules of evidence prevailing in courts of law or equity. The Hearing Examiner may call witnesses on his or her own motion and compel the production of books, records, papers, or other evidence as needed. To that end, the Hearing Examiner shall issue subpoenas and subpoenas duces tecum. All testimony shall be under oath administered by the Hearing Examiner. The Hearing Examiner may adjourn the hearing from

time to time to allow for the orderly presentation of evidence. The Hearing Examiner shall prepare an official record of the hearing, including all testimony, which shall be recorded by mechanical device, and exhibits; provided that the Hearing Examiner shall not be required to transcribe such records unless presented with a request accompanied by payment of the cost of transcription.

2. Within thirty (30) days after the conclusion of the hearing, the Hearing Examiner shall, based upon a preponderance of the evidence, make and fully record in his or her permanent records, findings of fact, conclusions of law, and his or her recommended disposition. A copy of the findings, conclusions, and recommended disposition shall be mailed to the person who made the complaint and to the person complained. Additional copies of the findings, conclusions, and recommendations shall be forwarded to the Board of Ethics and City Council.

C. CITY COUNCIL ACTION

Final City Council action to decide upon stipulations and recommendations from the Board of Ethics and findings, conclusions, and recommendations from the Hearing Examiner shall be by majority vote in a public meeting. If the proceeding involves a member of the City Council, that member will not participate in any executive session unless requested and shall not vote on any matter involving the member. Deliberations by the Council may be in executive session; however, upon request of the person against whom the complaint was made, a public hearing or public meeting before the Council will be held on the issue of penalties.

D. DISPOSITION

In the event the Hearing Examiner's finds that the person against whom the complaint was made has violated the Code of Ethics, then the City council may take any of the following actions by a majority vote of the Council. The action of the City Council shall be final and not subject to further review or appeal except as may be otherwise provided by law or as provided in Subsection E below.

1. Dismissal. Dismissal of the complaint without penalties.
2. Referral. A complaint may be referred to another agency with jurisdiction over the violation, such as the Public Disclosure Commission. Final action on the complaint may be stayed pending resolution of the matter by the agency to which it was referred.
3. Admonition. An admonition shall be an oral non-public statement made by the Mayor, or his/her designee, or if the complaint is against the Mayor, the Deputy Mayor or his/her designee to the Official.
4. Reprimand. A reprimand shall be administered to the Official by a resolution of reprimand by the City Council. The resolution shall be prepared by the City Council and shall be signed by the Mayor or, if the complaint is against the Mayor, the Deputy Mayor. 5. Censure. A resolution of censure shall be a resolution read personally to the person in public. The resolution shall be prepared by the City Council and shall be signed by the Mayor or if the complaint is against the Mayor, the Deputy Mayor. The person shall appear at a City

Council meeting at a time and place directed by the City Council to receive the resolution of censure. Notice shall be given at least twenty (20) calendar days before the scheduled appearance at which time a copy of the proposed resolution of censure shall be provided to the person. The resolution of censure shall be read publicly, and the person shall not make any statement in support of, or in opposition thereto, or in mitigation thereof. The resolution of censure shall be read at the time it is scheduled whether or not the Official appears as required.

5. Removal – Member of Board or Commission. In the event the individual against whom the complaint was made is currently a member of a City board or commission, appointed by the City Council, the City council may, in addition to other possible penalties set forth in this section, and notwithstanding any other provision of the Kirkland Municipal Code, by a majority vote remove the individual from such board or commission effective immediately.

6. Civil Penalties. The City Council may assess a civil penalty of up to One Thousand Dollar (\$1,000.00) or three (3) times the economic value of anything received in violation of this Code of Ethics or three times (3) the economic value of any loss to the City, whichever is greater. Any monetary penalty assessed civilly shall be placed in the City's general fund.

7. Contract void. As provided by RCW 42.23.050, any contract made in violation of Chapter 42.23 RCW, "Code of ethics for municipal officers – contract interests," is void.

8. Other penalties. The City Council may impose a budget reduction or restriction, loss of a committee assignment, or loss of appointment as a representative of the City for any regional or multi-jurisdictional body or membership on any board or commission which requires an appointment or confirmation of an appointment by the City Council.

E. REVIEW OF CIVIL PENALTIES

If the City Council orders a person to pay a civil penalty, the person may seek a writ of review from the superior court pursuant to Ch. 7.16 RCW, within thirty (30) days of the City Council's order.

F. PROTECTION AGAINST RETALIATION

Neither the City nor any Official may take or threaten to take, directly or indirectly, official or personal action, including but not limited to discharge, discipline, personal attack, harassment, intimidation, or change in job, salary, or responsibilities, against any person because that person files a complaint with the Board of Ethics.

G. PUBLIC RECORDS

Records filed with the Board of Ethics become public records that may be subject to inspection and copying by members of the public, unless an exemption in law exists. To the extent required to prevent an unreasonable invasion of personal privacy interests protected by RCW 42.56.230(2), identifying details may be redacted when an unsubstantiated complaint is made available in response to a public records request; however, in each case, the justification for the redaction shall be explained fully in writing. A finding by the Board of Ethics determining that a complaint is sufficient shall contain at the beginning the following specific language:

NOTICE: ANY PORTION OF THIS FINDING DETERMINING SUFFICIENCY OF ANY PORTION OF A COMPLAINT DOES NOT DETERMINE THE TRUTH OR FALSITY OF THE ALLEGATIONS CONTAINED IN THE COMPLAINT FILED WITH THE BOARD OF ETHICS. THE BOARD OF ETHICS HAS ONLY DETERMINED THAT IF CERTAIN FACTS CONTAINED IN THE COMPLAINT ARE FOUND TO BE TRUE DURING A LATER HEARING TO BE CONDUCTED BY THE HEARING EXAMINER, THEN VIOLATION(S) OF THE ETHICS CODE MAY BE FOUND TO HAVE OCCURRED.

The City shall release copies of any written reports resulting from an investigation of a sustained complaint, any Hearing Examiner orders, and any written censures or reprimands issued by the City Council, in response to public records requests consistent with Chapter 42.56 RCW and any other applicable public disclosure laws.

H. LIBERAL CONSTRUCTION – LIMITATION PERIOD – EFFECTIVE DATE

- a. This Code of Ethics shall be liberally construed to effectuate its purpose and policy and to supplement existing laws that relate to the same subject.
- b. Any action taken under this Code of Ethics must be commenced within three years from the date of violation.
- c. This Code of Ethics shall take effect _____.